

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

DANIEL ERIC COBBLE,	:	
	:	
Petitioner,	:	
	:	
VS.	:	
	:	NO. 5:12-CV-86-CAR-CHW
Warden GREGORY McLAUGHLIN,	:	
	:	
Respondent.	:	<u>ORDER</u>

Petitioner **DANIEL ERIC COBBLE**, an inmate at Smith State Prison, who has pending in this Court a petition for writ of habeas corpus, has filed a motion to proceed *in forma pauperis* in the appeal of the undersigned's April 3, 2012 Order. Said Order denied Petitioner's objections to the Magistrate Judge's dismissal of a number of Petitioner's motions.

Pursuant to 28 U.S.C. § 1915(a)(3), "[a]n appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith." In addition, Federal Rule of Appellate Procedure 24(a)(3) provides:

A party who was permitted to proceed *in forma pauperis* in the district-court action ... may proceed on appeal *in forma pauperis* without further authorization, unless:

- (A) the district court--before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed *in forma pauperis* and states in writing its reasons for the certification or finding; or
- (B) a statute provides otherwise.

"Good faith" means that an issue exists on appeal that is not frivolous under an objective standard.

Coppedge v. United States, 369 U.S. 438, 445 (1962). Petitioner is attempting to appeal an Order that is not a final order and, therefore, is not appealable. Moreover, even if the Court's Order were

final, Petitioner's appeal would be frivolous under an objective standard. The Court thus certifies, pursuant to 28 U.S.C. § 1915(a)(3), that the appeal is not taken in good faith. Accordingly, Petitioner's motion to proceed *in forma pauperis* on appeal is hereby **DENIED**. If Petitioner wishes to proceed with his appeal, he must prepay the entire \$455 appellate filing fee.

SO ORDERED, this 7th day of September, 2012.

S/ C. Ashley Royal
C. ASHLEY ROYAL, JUDGE
UNITED STATES DISTRICT COURT

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